Informal Meeting of the Justice and Home Affairs Ministers, Amsterdam 25-26 January 2016

Discussion Paper on the European Forensic Science Area 2020

Lunch meeting Ministers of Justice, 26 January 2016

Introduction

Forensic evidence is increasingly important in criminal matters. Since crime goes beyond national borders, there is also a growing need for Member States to exchange forensic evidence. At present it is all too often the case that public prosecutors and judges are unable to use forensic evidence from another Member State because they do not have sufficient knowledge about how the investigation was carried out or whether it was up to standards. The exchange of forensic evidence could be streamlined by creating a European Forensic Science Area. This would be an area in which the procedures of the providers of forensic services in the Member States would be better coordinated and the quality of investigations would be brought to an acceptable level. This will build confidence and encourage cooperation in the field of law enforcement and prosecution.

On 13 and 14 December 2011 the Council (Justice and Home Affairs) approved conclusions regarding the realisation of a European Forensic Science Area by 2020[1]. In its conclusions of 15 and 16 June 2015[2] on the renewed Internal Security Strategy 2015-2020, the Council (Justice and Home Affairs) emphasised the importance of a European Forensic Area for law enforcement and prosecution: *'Law enforcement and judicial authorities must be confident that the forensic data they rely on is of high quality, including if the data comes from another Member State. It is therefore important to ensure that the forensic data exchanged through information exchange systems, such as the Prüm framework for fingerprints and DNA profiles, can be effectively used in court.'*

Notwithstanding differences of opinion, however, about the way in which a European Forensic Science Area can best be achieved, replies to a questionnaire issued in June 2015 show that Member States continue to underline the importance thereof.

The demand for forensic research continues to grow, especially with the growing power of technology. The available budgets for forensic research are nevertheless under pressure in many Member States.

The aim of creating and developing a European Forensic Science Area is to enable the mutual exchange of knowledge and expertise. In the longer term it may even be possible for the Member States to share capacities: It would then no longer be necessary for each Member State to have its own top-level expertise 'in-house' for every area of forensic expertise; as a consequence, the financial and technical burdens could be shared between them.

In order to cooperate well in the field of forensics it is essential to invest in quality. In this regard an important contribution could be made by the objectives stated in the Council's Conclusions of 2011 such as the accreditation of forensic science institutes, respect for minimum competence criteria for forensic science personnel, and minimum quality standards for scene-of-crime investigations.

1 http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/jha/126875.pdf

2 http://ec.europa.eu/dgs/home-affairs/e-library/documents/basic-documents/docs/eu_agenda_on_security_en.pdf

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In the short term an investment in quality could focus on the following objectives:

- developing best practice manuals and proficiency tests[3] for all areas of forensic expertise;
- developing courses to increase forensic awareness among the law enforcement and justice community;
- encouraging the exchange of forensic data from databases.

The knowledge and expertise built up by the European Network of Forensic Science Institutes (ENFSI) could be put to good use in achieving these objectives. Several countries have already indicated in their replies to the questionnaire that they envisage a greater role for ENFSI.

Cooperation with ENFSI could therefore be encouraged. Cooperation could also be sought with CEPOL (the European Police College) in relation to forensic awareness courses.

Discussion

The ministers will be asked to answer[4] the following questions concerning the further development of the European Forensic Science Area:

1. The exchange of DNA profiles and fingerprints in the EU by linking databases has been very successful. Would you also like to encourage the linking of national databases covering other forensic data?
2. If so, for which areas of expertise (e.g. weapons and ammunition or drugs)?
3. In your opinion, will the development and use of best practice manuals, proficiency tests and forensic awareness courses contribute to the European Forensic Science Area in the short term?
4. If so, which issues should have the highest priority?
5. Do you think that ENFSI should be given a greater role in the further elaboration of the details of some of the Council's Conclusions of 2011 by being a European centre of expertise in the field of forensic research and could it contribute to the gradual realisation of the objectives set out in those conclusions?
6. If not, why not? If so, do you have any suggestions on ENFSI's role of governance?

3 Proficiency testing determines the performance of individual laboratories for specific tests or measurements and is used to monitor laboratories' continuing performance.

4 As mentioned in the cover note, you are kindly invited to share (an outline of) your Minister's response with the Presidency in advance, which will support us in focusing the discussion in the meeting on those points which require the most attention.